

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3433 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE A.N.DIVECHA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? Yes

2. To be referred to the Reporter or not? No

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3. Whether Their Lordships wish to see the fair copy of the judgement? No

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No

5. Whether it is to be circulated to the Civil Judge? No

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NATHA SHAMJI

Versus

STATE OF GUJARAT

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Appearance:

Shri N.K.Pahwa, Advocate, for Messrs Thakkar Associates, for the Petitioners.

Shri A.G.Uraizee, Assistant Government Pleader, for the Respondents.

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CORAM : MR.JUSTICE A.N.DIVECHA

Date of decision: 02/09/96

ORAL JUDGEMENT

The order passed by the Assistant Collector at Jamnagar (respondent No.3 herein) on 25th September 1989

as affirmed in appeal by the order passed by the Collector of Jamnagar (respondent No.2 herein) on 28th May 1990 as further affirmed in revision by the decision rendered by the Gujarat Revenue Tribunal at Ahmedabad (the Tribunal for convenience) on 12th October 1995 in Revision Application No.TEN.B.R.9 of 1992 is under challenge in this petition under Articles 226 and 227 of the Constitution of India. By the impugned order passed by respondent No.3, the land granted by the order passed on 11th November 1984 came to be cancelled and the land is forfeited to the Government.

2. The facts giving rise to this petition move in a narrow compass. The petitioners were granted one parcel of land admeasuring 929.03.33 square metres from survey No.130/1 situated at Kalavad district Jamnagar (the disputed land for convenience) for starting their industry in groundnut oil on certain terms and conditions. Its copy is at Annexure-A to this petition. One condition included completion of the construction work within two years from the date of grant of Sanad. It appears that no construction was raised on the disputed land by the petitioners. Thereupon, a show cause notice came to be issued calling upon the petitioners to show cause why the land should not be forfeited to the Government. The petitioners appeared before respondent No.3 and pleaded that no construction could be raised on the disputed land on account of drought years. By his order passed on 25th September 1989, respondent No.3 held the petitioners guilty of breach of the aforesaid condition and ordered forfeiture of the disputed land to the Government. Its copy is at Annexure-C to this petition. The aggrieved petitioners carried the matter in appeal before respondent No.2. It came to be registered as Appeal No.9 of 1994. By his order passed on 28th May 1990, respondent No.2 dismissed the appeal. Its copy is at Annexure-D to this petition. The aggrieved petitioners carried the matter in revision before the State Government. The State Government did not entertain the revisional application on the ground that it had no jurisdiction. The petitioners thereupon approached the Gujarat Revenue Tribunal at Ahmedabad in revision. Their revisional appeal came to be registered as Revision Application No.TEN.B.R.9 of 1992. By its decision rendered on 12th October 1995 in the aforesaid revisional application, the Tribunal rejected it. Its copy is at Annexure-E to this petition. The aggrieved petitioners have thereupon approached this court by means of this petition under Articles 226 and 227 of the Constitution of India for questioning the correctness of the order at Annexure-C to this petition as affirmed in

appeal by the appellate order at Annexure-D to this petition as further affirmed in revision by the decision at Annexure-E to this petition.

3. It is difficult to accept the submission urged before me by learned Advocate Shri Pahwa for the petitioners that the construction could not be raised on account of drought years. It has been found by the authorities below that 1988-89 was certainly not a year of drought or scarcity. Besides, it is an admitted position on record that no extension of the time-limit was sought by or on behalf of the petitioners for completing the construction work on the ground that it could not be completed on account of drought and scarcity during the intervening period. In that view of the matter, the impugned orders at Annexures-C, D and E to this petition call for no interference by this court in this petition under Articles 226 and 227 of the Constitution of India.

4. In the result, this petition fails. It is hereby rejected. It would however be open to the petitioners to apply for grant of this land to the Competent Authority and I am sure that the Competent Authority will consider that application on its own merits according to law. Rule is accordingly discharged with no order as to costs. The interim relief stands vacated.

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